

## **CHAPTER 3: CIVIL LAW AND MOTION**

### **RULE 300 - Applicability of Chapter**

This chapter is applicable to all non-criminal and non-family law cases.  
(01/01/99)

### **RULE 301 - Setting Law and Motion Hearing**

Prior to the filing of any law and motion matter, a date and time for hearing shall be reserved with the clerk. Matters will be formally set by the clerk for hearing upon receipt of a notice of motion and supporting documents, with the hearing date and time specified in accordance with the date and time reserved.  
(01/01/99)

### **RULE 302 - Moving Party's Duty to File Proof of Service**

The moving party in any motion or order to show cause matter shall file with the clerk of the court at least 5 calendar days prior to the date set for hearing, a proof of service showing that the matter was timely served on the party or parties against whom the order is sought. Failure to timely file such proof of service may result in the matter being dropped from calendar or continued, at the court's option, as well as an order for sanctions payable to other parties inconvenienced by the offending party. This rule does not apply to ex-parte matters.  
(01/01/99)

### **RULE 303 - Taking Law and Motion Hearing Off Calendar**

- (A) Unless otherwise ordered by the court, any moving party who wishes to have a law and motion matter taken off calendar shall give written notice to all parties, and shall notify the clerk and assigned judge in writing at least 5 court days before the scheduled hearing date with proof of notification to all parties. Proof of notification to all parties may be made by proof of service by mail, or by letter indicating that a copy thereof has been sent to all parties and that all parties have also been notified by telephone, or by a declaration indicating when, and in what manner, notice was given to all parties.
- (B) A law and motion matter may also be taken off calendar by stipulation of the parties, with written notice received by the court at least 5 court days before the scheduled hearing.
- (C) Within 5 court days of the hearing, permission to take the matter off calendar must be obtained from the assigned judge, upon request of all parties in

person, by conference call, or in writing.  
(01/01/99)

#### **RULE 304 - Continuing a Law and Motion Hearing**

Any request for continuance of a law and motion hearing shall be made by stipulation or motion setting forth good cause before the assigned judge at least 5 court days before the scheduled hearing with proof of notification to all parties.  
(01/01/99)

#### **RULE 305 - Telephonic Appearances**

Any attorney may appear telephonically with prior approval of the assigned court. The attorney shall make arrangements for a "collect" call from the court or shall place a call to the court as directed by the court clerk. If multiple parties are making telephonic appearances counsel shall arrange a conference call. Failure to place a call timely or to be in position to receive an arranged telephone call, as the case may be, shall constitute a non-appearance at the court proceeding.

A request for telephonic appearance may be refused when substantial oral argument is anticipated, when the multiplicity of parties makes telephonic appearances impractical, or when the court determines the orderly conduct of court business would be facilitated by personal appearances.

(01/01/99)

#### **RULE 306 - Preparation and Approval of Orders**

In every case where the court's ruling is to be reduced to a formal written order, the prevailing party shall file with the court and serve upon all other parties within 5 days of announcement of the ruling a proposed form of order, unless the court specifies a different procedure.  
(01/01/99)

#### **RULE 307 - Ex-parte Applications**

All applications for ex-parte orders failing to comply with Rule 379 of the California Rules of Court will be rejected.  
(01/01/99)

#### **RULE 308 - Subsequent Ex-parte Application**

When an ex-parte application for an order has been made to the court, and refused in whole or in part, or granted conditionally or on terms, and a subsequent ex-parte

application is made by the same party in the same case for a similar order upon an allegedly different set of facts, it shall be shown by affidavit or declaration under penalty of perjury accompanying such application that similar application was previously made, when and to what judge it was made, what the nature of the application was, what order or decision was made thereon, and what new facts are claimed to be shown. If a party fails to comply with these requirements, any ex-parte order made on such subsequent application may be vacated or set aside on ex-parte motion or on the court's own motion at any time.

(01/01/99)

**RULE 309 - Summary Judgment/Adjudication Motions-Submission of Proposed Orders**

(A) A party moving for summary judgment/adjudication shall, on or before the date the reply to opposition is due, lodge with the court and serve on all parties an unfiled proposed order granting the motion which fully complies with Code of Civil Procedure section 437c, subsection (f) (1) or subsection (g) or both.

(B) A party opposing a motion for summary judgment/adjudication shall, on or before the date opposition is due, lodge with the court and serve on all parties an unfiled proposed order denying the motion which fully complies with Code of Civil Procedure section 437c, subsection (f) (1) or subsection (g) or both.

(01/01/99)

**RULE 310 - Filing Proof of Publication Five Days Before Hearing**

In any matter, including probate petitions, petitions for change of name, or other civil matters, where notice or service by publication is a **prerequisite** for the court's ability to entertain the petition, motion, or proceeding, proof of publication shall be filed with the court at least five (5) days before the motion is to be heard.

Failure to comply with this rule may result in removal of the matter from calendar, a continuance of the hearing in question, and sanctions payable to any party inconvenienced by the offending party.

(01/01/99)

**(RULES 311 - 399 Reserved)**